

21 C.J.S. Courts § 60

Corpus Juris Secundum | June 2023 Update

Courts

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II. Jurisdiction of Courts

D. Jurisdiction of Person

4. Particular Circumstances or Actions Affecting Exercise of Personal Jurisdiction

§ 60. Principal subject to personal jurisdiction by acts of agent

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  [13.6\(1\)](#) to [13.6\(9\)](#)

A principal may be subject to the personal jurisdiction of the courts of a state as a result of the activities of its agent with the actual or apparent authority of the principal.

A principal may be subject to the personal jurisdiction of the courts of a state as a result of the activities of its agent,¹ imputing the agent's contacts with the forum to the principal for purposes of personal jurisdiction.²

The agent must act with the actual or apparent authority of the principal,³ in the scope of the agent's employment and under the direction of the principal.⁴ The agent must have engaged in activity in the forum state for the benefit of and with the knowledge and consent of the principal, and the principal must have exercised some control over the agent in the matter.⁵ The agent's activities in the forum must be purposeful in relation to the action or for the benefit of and with the knowledge

and consent of the defendant.⁶ The casual presence of an agent or even the agent's conduct of single or isolated items of activities in the forum state on the principal's behalf are not enough to subject the principal to suit on causes of action unconnected with the activities there.⁷

To make a prima facie showing of control for an agency theory, it must appear that the defendant was a primary actor in the specific matter in question, and control cannot be shown based merely upon a defendant's title or position, or upon conclusory allegations that the defendant controls the agent.⁸ Nonetheless, a formal agency relationship is not required if the prerequisites of agency are established,⁹ and the courts look to the realities of the situation to determine the existence of agency for jurisdictional purposes.¹⁰ An attenuated relationship with a third-party actor is not sufficient for jurisdictional agency purposes.¹¹

Independent contractor relationship.

Independent contractors, as service providers with multiple clients and without distinct decision-making capabilities in relation to their clients, are not agents of their clients for purposes of establishing personal jurisdiction.¹² An independent contractor relationship is inconsistent with the concept of agency for jurisdictional purposes, when lacking the necessary element of control.¹³

Alter-ego theory.

Another characterization of the exercise of personal jurisdiction on a representative basis is that of the alter-ego theory, whereby one entity may be considered the in-forum alter ego of an out-of-state entity for purposes of personal jurisdiction over the latter.¹⁴ It has been observed that a court's reliance on state substantive law of agency and alter ego to determine the constitutional limits of specific personal jurisdiction is unnecessary and is an imprecise substitute for the appropriate jurisdictional question since the proper question is not whether the defendant can be liable for the acts of another person or entity under state substantive law but whether the defendant has purposefully directed its activities at the forum state by causing a separate person or entity to engage in forum contacts.¹⁵

CUMULATIVE SUPPLEMENT

Cases:

To be considered an agent under New York's long-arm statute, an alleged agent must have acted for the benefit of and with the knowledge and consent of the non-resident principal and the non-resident principal must have exercised some control over the alleged agent. [N.Y. CPLR § 302\(a\)](#). [Edwardo v. Roman Catholic Bishop of Providence](#), 66 F.4th 69 (2d Cir. 2023).

[END OF SUPPLEMENT]

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Footnotes

- 1 U.S.—[Jane Voe #£2 v. Archdiocese of Milwaukee](#), 700 F. Supp. 2d 653 (D. Del. 2010) (applying Delaware law); [Associated Producers, LTD v. Vanderbilt University](#), 76 F. Supp. 3d 154, 319 Ed. Law Rep. 728 (D.D.C. 2014) (applying District of Columbia law); [BCCTC Associates, Inc. v. Summerdale/AAHFI, L.P.](#), 656 F. Supp. 2d 208 (D. Mass. 2009) (applying Massachusetts law); [Rovio Entertainment, Ltd. v. Allstar Vending, Inc.](#), 97 F. Supp. 3d 536 (S.D. N.Y. 2015) (applying New York law).

Cal.—[Young v. Daimler AG](#), 228 Cal. App. 4th 855, 175 Cal. Rptr. 3d 811 (1st Dist. 2014).

Tex.—[In re Miscavige](#), 436 S.W.3d 430 (Tex. App. Austin 2014).
- 2 U.S.—[In re Chinese-Manufactured Drywall Products Liability Litigation](#), 753 F.3d 521 (5th Cir. 2014) (applying Louisiana law).

Cal.—[Young v. Daimler AG](#), 228 Cal. App. 4th 855, 175 Cal. Rptr. 3d 811 (1st Dist. 2014).

Tex.—[In re Miscavige](#), 436 S.W.3d 430 (Tex. App. Austin 2014).
- 3 Tex.—[In re Miscavige](#), 436 S.W.3d 430 (Tex. App. Austin 2014).
- 4 U.S.—[Thompson v. Roman Catholic Archbishop of Washington](#), 735 F. Supp. 2d 121, 263 Ed. Law Rep. 552 (D. Del. 2010) (applying Delaware law).
- 5 U.S.—[Associated Producers, LTD v. Vanderbilt University](#), 76 F. Supp. 3d 154, 319 Ed. Law Rep. 728 (D.D.C. 2014) (applying District of Columbia law); [Gerstle v. National Credit Adjusters, LLC](#), 76 F. Supp. 3d 503 (S.D. N.Y. 2015) (applying New York law).

Elements of agency required
Fla.—[E & H Cruises, Ltd. v. Baker](#), 88 So. 3d 291 (Fla. 3d DCA 2012).

N.C.—[Bauer v. Douglas Aquatics, Inc.](#), 207 N.C. App. 65, 698 S.E.2d 757 (2010).
- 6 U.S.—[Schutte Bagclosures Inc. v. Kwik Lok Corp.](#), 48 F. Supp. 3d 675 (S.D. N.Y. 2014) (applying New York law).

N.Y.—[Morgan ex rel. Hunt v. A Better Chance, Inc.](#), 70 A.D.3d 481, 895 N.Y.S.2d 374 (1st Dep't 2010).
- 7 Ill.—[Bell v. Don Prudhomme Racing, Inc.](#), 405 Ill. App. 3d 223, 345 Ill. Dec. 371, 939 N.E.2d 100 (4th Dist. 2010).

- 8 U.S.—*Schutte Bagclosures Inc. v. Kwik Lok Corp.*, 48 F. Supp. 3d 675 (S.D. N.Y. 2014) (applying New York law).
- 9 U.S.—*Schutte Bagclosures Inc. v. Kwik Lok Corp.*, 48 F. Supp. 3d 675 (S.D. N.Y. 2014) (applying New York law).
- N.Y.—*Metropolitan Group Property & Cas. Ins. Co. v. Wellington*, 42 Misc. 3d 270, 975 N.Y.S.2d 617 (Dist. Ct. 2013).
- 10 U.S.—*Rainbow Apparel Distribution Center Corp. v. Gaze U.S.A., Inc.*, 295 F.R.D. 18 (E.D. N.Y. 2013) (applying New York law).
- 11 Ill.—*Madison Miracle Productions, LLC v. MGM Distribution Co.*, 2012 IL App (1st) 112334, 365 Ill. Dec. 399, 978 N.E.2d 654 (App. Ct. 1st Dist. 2012).
- 12 U.S.—*Rates Technology Inc. v. Cequel Communications, LLC*, 15 F. Supp. 3d 409 (S.D. N.Y. 2014) (applying New York law).
- 13 Fla.—*E & H Cruises, Ltd. v. Baker*, 88 So. 3d 291 (Fla. 3d DCA 2012).
- N.C.—*Bauer v. Douglas Aquatics, Inc.*, 207 N.C. App. 65, 698 S.E.2d 757 (2010).
- 14 U.S.—*In re Chinese-Manufactured Drywall Products Liability Litigation*, 753 F.3d 521 (5th Cir. 2014) (applying Louisiana law).
- Tex.—*Foley v. Trinity Industries Leasing Co.*, 314 S.W.3d 593 (Tex. App. Dallas 2010).
- Elements of alter ego relationship**
Tex.—*Booth v. Kontomitrass*, 2016 WL 240887 (Tex. App. Beaumont 2016).
- 15 Cal.—*HealthMarkets, Inc. v. Superior Court*, 171 Cal. App. 4th 1160, 90 Cal. Rptr. 3d 527 (2d Dist. 2009).